

1 **PINNOCK & WAKEFIELD, A.P.C.**

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5 Attorneys for Plaintiffs

6

7 **UNITED STATES DISTRICT COURT**

8 **SOUTHERN DISTRICT OF CALIFORNIA**

9

10 **OUTERBRIDGE ACCESS ASSOCIATION,
SUING ON BEHALF OF DIANE CROSS;
and DIANE CROSS, An Individual,**

11 **Plaintiffs,**

12 **v.**

13 **MARIE CALLENDER'S PIE SHOPS, INC.
d.b.a. MARIE CALLENDER'S #254;
PACIFIC BAGELS, LLC d.b.a.
BRUEGGARS BAGELS; COURTYARD
HOLDINGS, LP; PSS PARTNERS, LLC;
AND DOES 1 THROUGH 10, Inclusive,**

14 **Defendants.**

15 **Case No.: 07cv2129 BTM (AJB)**

16 **JOINT MOTION AND MOTION TO
DISMISS ONLY DEFENDANT MARIE
CALLENDER'S PIE SHOPS, INC.
d.b.a. MARIE CALLENDER'S #254
WITH PREJUDICE FROM
PLAINTIFFS' COMPLAINT.**

17 [Fed.R.Civ.P. Rule 41(a)(2)]

18

19 **THIS JOINT MOTION IS HEREBY MADE AND IT IS HEREBY STIPULATED**

20 by and between OUTERBRIDGE ACCESS ASSOCIATION, SUING ON BEHALF OF
21 DIANE CROSS; and DIANE CROSS, An Individual, Plaintiffs, on the
22 one hand, and Defendant MARIE CALLENDER'S PIE SHOPS, INC. d.b.a.
23 MARIE CALLENDER'S #254 on the other hand, through their
24 respective attorneys of record that, pursuant to Federal Rules of
25 Civil Procedure, Rule 41 (a)(1) and (2), this Court enter a
26
27
28

1 dismissal with prejudice of ONLY Defendant MARIE CALLENDER'S PIE
2 SHOPS, INC. d.b.a. MARIE CALLENDER'S #254 from Plaintiffs'
3 Complaint, Case Number: 07cv2129 BTM (AJB). Additionally,
4 dismissal of ONLY Defendant MARIE CALLENDER'S PIE SHOPS, INC.
5 d.b.a. MARIE CALLENDER'S #254 shall not affect the continuing
6 litigation with the remaining Defendants.

7

8 **THIS JOINT MOTION IS HEREBY MADE AND IT IS SO STIPULATED.**

9

10 Dated: March 11, 2008

PINNOCK & WAKEFIELD, A.P.C.

12 By: s/ Michelle L. Wakefield
13 Attorney for Plaintiffs
14 E-mail: MichelleWakefield@
PinnockWakefieldLaw.com

15 Dated: March 11, 2008

CALL JENSEN & FERRELL

17 By: s/ Lisa A. Wegner
18 Attorney for Defendant MARIE
19 CALLENDER'S PIE SHOPS, INC.
20 d.b.a. MARIE CALLENDER'S #254
E-mail: lwegner@calljensen.com

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7 **UNITED STATES DISTRICT COURT**

8 **SOUTHERN DISTRICT OF CALIFORNIA**

9

10 **OUTERBRIDGE ACCESS ASSOCIATION,
SUING ON BEHALF OF DIANE CROSS;
and DIANE CROSS, An Individual,**

11 **Plaintiffs,**

12 **v.**

13

14 **MARIE CALLENDER'S PIE SHOPS,
INC. d.b.a. MARIE CALLENDER'S
#254; PACIFIC BAGELS, LLC d.b.a.
BRUEGGARS BAGELS; COURTYARD
HOLDINGS, LP; PSS PARTNERS, LLC;
AND DOES 1 THROUGH 10,
Inclusive,**

15

16 **Defendants.**

17 **Case No.: 07cv2129 BTM (AJB)**

18 **PROOF OF SERVICE VIA ECF**

19 [Fed.R.Civ.P. 6(e)]

20

21 **STATE OF CALIFORNIA, COUNTY OF SAN DIEGO**

22

23 I am employed in the County of San Diego, State of
24 California. I am over the age of 18 and not a party to the
25 within action; my business address is 3033 Fifth Avenue, Suite
26 410, San Diego, California, 92103.
27

1 On this date, I served the following document(s) described
2 as JOINT MOTION AND MOTION TO DISMISS ONLY DEFENDANT MARIE
3 CALLENDER'S PIE SHOPS, INC. d.b.a. MARIE CALLENDER'S #254 WITH
4 PREJUDICE FROM PLAINTIFFS' COMPLAINT on all Defendants in this
5 action:

6 **Lisa A. Wegner, Esq.**
7 Call Jensen & Ferrell
8 610 Newport Center Drive, #700
Newport Beach, CA 92660
Telephone: (949) 717-3000
Facsimile: (949) 717-3100
E-mail Address: lwegner@calljensen.com
ATTORNEY FOR DEFENDANT MARIE CALLENDER'S PIE SHOPS, INC. d.b.a.
MARIE CALLENDER'S #254

12 **Richard R. Waite, Esq.**
13 KEENEY WAITE & STEVENS
14 125 North Acacia Avenue, Suite 101
Solana Beach, California 92075
Telephone: (858) 523-2130
Facsimile: (858) 523-2135
E-mail Address: rwaite@keenlaw.com
ATTORNEY FOR DEFENDANT PACIFIC BAGELS, LLC d.b.a. BRUEGGARS
BAGELS

18 **Bronwyn F. Pollock**
Mayer Brown LLP
350 S. Grand Ave., 25th Floor
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E-mail Address: Bpollock@mayerbrown.com
ATTORNEY FOR DEFENDANT COURTYARD HOLDINGS, LP

24 X BY ELECTRONIC SERVICE TRANSMISSION via the United
25 States District Court, Southern Division of California, Case
26 Management/Electronic Case Files, Filing System. I served a copy
27 of the above listed document(s) to the e-mail addresses of the
28

1 addressee(s) by use of email as identified and maintained
2 therein.

3
4 AND/OR BY:

5 placing the original a true copy
6 thereof enclosed in sealed enveloped addressed as stated above.
7

8 **BY MAIL:** I am readily familiar with the firm's
9 practice of collection and processing correspondence for mailing.
10 Under that practice, it would be deposited with the U.S. Postal
11 Service on the same day with postage thereon fully prepaid,
12 mailed at San Diego, California, in the ordinary course of
13 business. I am aware that on motion of the party served, service
14 is presumed invalid if postal cancellation date or postage meter
15 date is more than one day after date of deposit for mailing in
16 affidavit.

17
18 **BY FACSIMILE TRANSMISSION:** From FAX No. (619) 858-3646
19 to the facsimile numbers listed above on the mailing list. The
20 facsimile machine I used complied with Rule 6 (e), and no error
21 was reported by the machine.

22
23 **STATE:** I declare under penalty of perjury, under the
24 laws of the State of California, that the foregoing is true and
25 correct.

A **FEDERAL:** I declare that I am employed in the office
of a member of the Bar of this Court, at whose direction this
service was made.

EXECUTED on March 11, 2008, at San Diego, California.

ASP
Angela Payne